

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

IN RE: Matthew Mitchell
And Jennylyn Mitchell

Debtor.

CASE NO. 9:13-bk-03951-FMD
CHAPTER 13

**ORDER GRANTING DEBTORS' MOTION TO DETERMINE
SECURED STATUS OF DEUTSCHE BANK/BANK OF AMERICA NA
AND TO STRIP LIEN EFFECTIVE UPON DISCHARGE
AND REQUEST FOR ATTORNEYS FEES**

THIS CASE came on for consideration, *ex parte*, on the Debtors' Motion to Determine Secured Status of Deutsche Bank/Bank of America NA and to Strip Lien (the "Motion") (Doc. 20) pursuant to negative notice provisions of Local Rule 2002-4. The Court, considering the Motion and the absence of any record objection to the relief requested in the Motion by any party in interest, deems the Motion to be uncontested. If Deutsche Bank/Bank of America NA Has not filed a proof of claim in this case, the Motion is not deemed to be an informal proof of claim except for the purpose of initiating the Debtors ability to request relief pursuant to 11 U.S.C.`506(a).

The real property (the "Real Property") that is the subject of the Motion is located at 12573 Gemstone Court, Ft Myers, FL 33913, and more specifically described as follows:

Lot 35, Block D, Stoneybrook at Gateway, Unit 2,
according to the Plat thereof, recorded in Plat Book 78,
Page 26, of the Public Records of Lee County, Florida.

Accordingly, it is hereby ORDERED:

1. The Motion is GRANTED.

2. If Deutsche Bank/Bank of America NA timely filed a proof of claim, the claim shall be treated as an unsecured claim, Claim No. 12-1 ,in this Chapter 13 case.

3. The mortgage on the Real Property held by Deutsche Bank/Bank of America NA, account number xxxx2946, recorded on July 10th, 2006, at Pages 10, Instrument No. 2006000270824, of the official records of Lee County, Florida shall be deemed void, and shall be extinguished automatically, without further court, upon the recordation in the public records of a certified copy of this Order together with (a) a certified copy of the Debtors Chapter 13 discharge order or (b) such other paper as the Court may specify by separate order. However, the Court reserves jurisdiction to consider, if appropriate, the avoidance of Deutsche Bank/Bank of America NA mortgage lien prior to entry of Debtors discharge.

4. This order does not prohibit Deutsche Bank/Bank of America NA asserting, at any time prior to the time when the lien is avoided by this order upon entry of the Debtors' discharge, any rights it may have as a defendant in any foreclosure proceeding brought by a senior mortgagee, including the right to claim excess proceeds from any foreclosure sale.

IT IS FURTHER ORDERED that Debtors' attorney is awarded

\$ 300.00 in fees, and costs for 15 photocopies at \$0.15 per page, totaling \$ 2.25 plus postage for 5 mailings at \$ 0.46 per mailing, totaling \$ 2.30 , for total costs of \$ 4.55 .

DONE AND ORDERED at Tampa, Florida on _____.

CARYL E. DELANO
United States Bankruptcy Judge

Attorney for Debtors, Richard J. Hollander, is directed to serve a copy of this Order on interested parties and file a proof of service within 3 days of entry of this Order.

Copies to:
Miller and Hollander
U.S. Trustee
Jon M. Waage, Trustee
Debtors

**-Deutsche Bank/Bank of America NA, c/o Melissa Vermillion,
Claimant, Prober & Raphael, PO box 4365, Woodland Hills, CA
91365-4365.**

**-Deutsche Bank/Bank of America NA, c/o Dean R. Prober, Attorney
of Record, 20750 Ventura Blvd, #100, Woodland Hills, CA 91364.**

**-Deutsche Bank/Bank of America NA, c/o Brian T. Moynihan,
President 401 N Tryon Street, Charlotte, NC 28255.**

**-Deutsche Bank/Bank of America NA, c/o CT Corporation Systems,
Registered Agent, 1200 South Pine Island Road, Plantation, FL
33324.**